

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

**PATRICIA E. MULLINEX,** )  
**INDIVIDUALLY AND AS THE** )  
**EXECUTOR OF THE ESTATE OF** )  
**HERBERT H. MULLINEX, JR.** )  
                                  )  
                                  )  
**Plaintiff,**                 )  
                                  )  
v.                              )                                  **Case No. 4:18-cv-00033-RAJ-DEM**  
                                  )  
                                  )  
**JOHN CRANE INC.,**            )  
                                  )  
**Defendant.**                 )

**JOHN CRANE INC.'S ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFFS' THIRD AMENDED COMPLAINT**

Defendant, John Crane Inc. ("JCI"), by counsel, incorporates fully by reference its Answer and Affirmative Defenses to Plaintiffs' Second Amended Complaint [ECF No. 460], and responds as follows only to the specific allegations in Plaintiffs' Third Amended Complaint ("Third Amended Complaint") that differ from Plaintiffs' Second Amended Complaint<sup>1</sup>:

**ANSWER**

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6. Upon reasonable information and belief, JCI admits the allegations contained in Paragraph 6 of the Third Amended Complaint.

7. Upon reasonable information and belief, JCI admits the allegations contained in Paragraph 7 of the Third Amended Complaint.

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<sup>1</sup> See Pls.' Memo in Support of Motion for Default 1, Dkt. 560 (Sept. 7, 2022) ("Plaintiff filed a Third Amended Complaint on March 24, 2022, (ECF 478), including five (5) additional paragraphs not included in the Second Amended Complaint").

8. Upon reasonable information and belief, JCI admits the allegations contained in Paragraph 8 of the Third Amended Complaint.

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29. Paragraph 29 states legal conclusions to which no response is required. JCI further states that no response is required because this Court has already granted JCI's motion to dismiss damages for Plaintiff's Decedent's pre-death pain and suffering. [ECF No. 538]. If and to the extent a further response is required, JCI expressly denies that Plaintiff is entitled to damages for Plaintiff's Decedent's pre-death pain and suffering as a matter of maritime law or Virginia law, and denies the remaining allegations contained in Paragraph 29.

30. Paragraph 30 states legal conclusions to which no response is required. JCI further states that no response is required because this Court has already granted JCI's motion to exclude loss of society and other damages asserted in Paragraph 30. [ECF No. 538]. See 46 U.S.C. § 30302; *Dutra Group v. Batterton*, 139 S. Ct. 2275 (2019); *Atl. Sounding Co. v. Townsend*, 557 U.S. 404 (2009); *Yamaha Motor Corp., U.S.A. v. Calhoun*, 516 U.S. 199 (1996); *Miles v. Apex Marine Corp.*, 498 U.S. 19 (1990); *Mobil Oil Corp. v. Higginbotham*, 436 U.S. 618, 624 (1978); *John Crane, Inc. v. Hardick*, 284 Va. 329, 732 S.E.2d 1 (2012). To the extent Paragraph 30 asserts such damages under Virginia law, JCI states Virginia law does not apply here and that a seaman's maritime-law claims cannot be supplemented with state remedies. See *Yamaha Motor Corp., U.S.A. v. Calhoun*, 516 U.S. 199, 202 (1996) (holding that "state remedies remain applicable" in "maritime wrongful-death cases in which no federal statute specifies the appropriate relief *and the decedent was not a seaman*") (emphasis added). If and to the extent a further response is required, JCI expressly denies that Plaintiff is entitled to loss of society and other damages asserted in Paragraph 30, and denies the remaining allegations contained in Paragraph 30.

**JOHN CRANE INC. DEMANDS A TRIAL BY JURY ON ALL ISSUES.**

Dated: October 26, 2022

**Respectfully submitted,**

**JOHN CRANE INC.,  
Defendant**

By: /s/ Eric G. Reeves  
Counsel

Eric G. Reeves (VSB # 38149)  
Laura May Hooe (VSB # 84170)  
Mary Louise Roberts (VSB # 34305)  
Lisa Moran McMurdo (VSB # 44371)  
MORAN REEVES & CONN PC  
1211 E. Cary Street  
Richmond, Virginia 23219  
Telephone: (804) 421-6250  
Facsimile: (804) 421-6251  
[ereeves@moranreevesconn.com](mailto:ereeves@moranreevesconn.com)  
[lmayhooe@moranreevesconn.com](mailto:lmayhooe@moranreevesconn.com)  
[mroberts@moranreevesconn.com](mailto:mroberts@moranreevesconn.com)  
[lmcmurdo@moranreevesconn.com](mailto:lmcmurdo@moranreevesconn.com)

Brian J. Schneider (VSB #45841)  
SPOTTS FAIN PC  
411 E. Franklin Street  
Suite 600  
Richmond, Virginia 23219  
Telephone: (804) 921-1306  
[bschneider@spottsfain.com](mailto:bschneider@spottsfain.com)

Christopher O. Massenburg, Esq (admitted *pro hac vice*)  
MANNING GROSS & MASSENBURG, LLP  
14 Wall Street, 28<sup>th</sup> Floor  
New York, New York 10005  
Telephone: (504) 799-0504  
Facsimile: (504) 535-2886  
[cmassenburg@mgmlaw.com](mailto:cmassenburg@mgmlaw.com)

*Counsel for John Crane Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of October, 2022, a true and accurate copy of the foregoing was filed electronically using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

/s/ Eric G. Reeves  
Eric G. Reeves (VSB # 38149)  
Laura May Hooe (VSB # 84170)  
Mary Louise Roberts (VSB # 34305)  
Lisa Moran McMurdo (VSB # 44371)  
MORAN REEVES & CONN PC  
1211 East Cary Street  
Richmond, Virginia 23219  
Telephone: (804) 421-6250  
Facsimile: (804) 421-6251  
[ereeves@moranreevesconn.com](mailto:ereeves@moranreevesconn.com)  
[lmayhooe@moranreevesconn.com](mailto:lmayhooe@moranreevesconn.com)  
[mroberts@moranreevesconn.com](mailto:mroberts@moranreevesconn.com)  
[lmcmurdo@moranreevesconn.com](mailto:lmcmurdo@moranreevesconn.com)